

CHAPTER NO. 944**SENATE BILL NO. 601****By Kyle, Fowler, Clabough****Substituted for: House Bill No. 1454**

By Overbey, Mr. Speaker Naifeh, Stanley, Hagood, Shepard, Brenda Turner, Todd, Hawk, Kent, Hensley, Buttry, Gresham, Harry Brooks, Armstrong, Baird, DuBois, Bittle, Crider, Towns, Hargett, Sargent, Pleasant

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 6 and Title 68, Chapter 11, relative to limiting vicarious liability for the acts or omissions of state-employed interns, residents, and fellows serving in training programs of medical and health science schools owned or operated by the State of Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-205, is amended by adding the following new subsection (c) and by redesignating present subsection (c) as subsection (d):

(c) No teaching institution shall be held vicariously liable for any act or omission of an intern, resident or fellow in the course of a training program of a medical school owned or operated by the State of Tennessee under a legal theory of implied or apparent agency, ostensible agency, or any other theory of vicarious liability except actual agency. In determining whether the intern, resident or fellow was an actual agent of the teaching institution, the fact that such intern, resident or fellow was in the teaching institution and providing treatment or services or otherwise caring for patients and was following the institution's bylaws, rules and regulations, policies, procedures, and protocols is insufficient, standing alone, to prove that the intern, resident or fellow was acting as the institution's actual agent.

SECTION 2. Tennessee Code Annotated, Section 68-11-205, is further amended by adding the following new definitions, to be appropriately designated, to present subsection (c), redesignated as subsection (d) by this act:

() "Intern", "resident", or "fellow" mean any person receiving instruction through and acting within the scope of a training program of a medical school owned or operated by the State of Tennessee and who, in such capacity, receives compensation payable by the State of Tennessee and is entitled to individual immunity as an employee of the State of Tennessee pursuant to Tennessee Code Annotated, § 9-8-307(h).

() "Teaching institution" means a hospital or mental health hospital, operating within the scope of an affiliation agreement with any medical school owned or operated by the State of Tennessee, and shall further include but not be limited to any sole proprietorship, partnership, corporation, limited liability company, or other public or private entity that owns, controls, or is affiliated with any such institution.

SECTION 3. This act shall take effect on July 1, 2004, the public welfare requiring it and shall apply to all causes of actions arising on or after such date.

PASSED: May 20, 2004


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 15th day of June 2004


PHIL BREDESEN, GOVERNOR